



Thurston County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received	RECEIVED
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NOV 24 2004	
Washington State	
Reviewed by	Department of Ecology
Date Reviewed:	

Applicant: Todd Hansen, Scatter Creek Development Corporation

Application Number: THUR-04-03

This record of decision was made by a majority of the board at an open public meeting of the Thurston County Water Conservancy Board held on November 21, 2004.

☒ **Approval:** The (board name) Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on November 21, 2004 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on November 21, 2004 and submits this record of decision to the Department of Ecology for final review.

Signed:

Nick Adams, Chairman
Thurston County Water Conservancy Board

Date: _____
Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Michael Rhubright, Vice-Chairman
Thurston County Water Conservancy Board

Date: 11-21-04
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Jerry Louthain, Secretary
Thurston County Water Conservancy Board

Date: 11-21-04
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Jon Hare, Commissioner
Thurston County Water Conservancy Board

Date: 11-21-04
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Tom Myrum, Commissioner
Thurston County Water Conservancy Board

Date: 11-21-04
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Bill Smith, Alternate Commissioner
Thurston County Water Conservancy Board

Date: _____
Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Mailed to the Department of Ecology Southwest Regional Office of Ecology, and other interested parties on _____, 2004

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Ecology is an equal opportunity employer

Thurston County
WATER CONSERVANCY BOARD
Application for Change/Transfer

Record of Decision
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

☐ **Surface Water** (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)

☒ **Ground Water** (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

DATE APPLICATION RECEIVED May 27, 2004		CERTIFICATE NUMBER 1118-A	CHANGE APPLICATION NUMBER THUR-04-03
NAME Todd Hansen, Scatter Creek Development Corporation		PHONE (360) 534-0360	
ADDRESS (STREET) P O Box 793	(CITY) Tenino	(STATE) WA	(ZIP CODE) 98589

DECISION HISTORICAL SUMMARY

Existing Use						Proposed Use					
QUANTITY, TYPE OF USE, PERIOD OF USE 110 Acre-Feet/Year, 250 GPM Irrigation of 55 acres each year						QUANTITY, TYPE OF USE, PERIOD OF USE 26.88 Acre-Feet/Year, 50 GPM, Community Domestic Supply, year-round use; 61.02 Acre/Feet/Year, 200 GPM Irrigation on Resource Parcel, May to September, each year; and 22.10 Acre-Feet/Year Irrigation on 66 Residential Lots during irrigation season each year					
SOURCE Existing well (to be abandoned) located at 17735 Old Highway 99 SW, Thurston Co TP # 12633200000						SOURCE Future Well #1 and #2					
TRIBUTARY OF (IF SURFACE WATER)						TRIBUTARY OF (IF SURFACE WATER)					
NO.	1/4	1/4	SECTION	TOWNSHIP N.	RANGE,	NO.	1/4	1/4	SECTION	TOWNSHIP N.	RANGE,
1		NW	33	16 N	2WWM	1	NW	SW	33	16 N	2WWM
						2	SE	NW	33	16 N	2WWM
Place of Use LEGAL DESCRIPTION OF LANDS WHEREWATER IS PRESENTLY USED: S ½ of the SW ¼ of Sec. 28, N ½ of SW ¼ and NW ¼ of Sec. 33, all in Twp. 16 N., Rge. 2 W.W.M. In Thurston County, Washington.						Place of Use: LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED: PARCEL A: The South half of the Southwest quarter of Section 28, Township 16 North, Range 2 West, W.M., EXCEPTING Lacamas Road along the Easterly boundary. PARCEL B: The part of the Northwest quarter of Section 33, Township 16 North, Range 2 West, W.M., lying Northwesternly of Tenino Highway, EXCEPTING Lacamas Road along the Easterly boundary. ALSO EXCEPTING that portion conveyed to Thurston County for right-of-way, by deed recorded July 11, 2001 under Auditor's File No. 3364386. PARCEL C: That part of the North half of the Southwest quarter of Section 33, Township 16 North, Range 2 West, W.M., lying Northwesternly of Tenino Highway. In Thurston County, Washington.					
NO.	1/4	¼	SECTION	TOWNSHIP N.	RANGE,	NO.	1/4	1/4	SECTION	TOWNSHIP N.	RANGE,
	S ½	SW	28	16 N	2WWM		S ½	SW	28	16 N	2WWM
	N ½	SW	33	16 N	2WWM		N ½	SW	33	16 N	2WWM
		NW	33	16 N	2WWM			NW	33	16 N	2WWM

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BOARD DECISION

MAXIMUM CUB FT/ SECOND N/A	MAXIMUM GAL/MINUTE 250	MAXIMUM ACRE-FT/YR 110	TYPE OF USE, PERIOD OF USE 26.88 Acre-Feet/Year, 50 GPM, Community Domestic Supply, year-round use; 61.02 Acre/Feet/Year, 200 GPM Irrigation on Resource Parcel of the proposed Plat of Scatter Creek Ranch, May to September, each year; and 22.10 Acre-Feet/Year Irrigation on Residential Lots of the proposed Plat of Scatter Creek Ranch during irrigation season each year				
SOURCE Future Wells #1 and #2			TRIBUTARY OF (IF SURFACE WATER) N/A				
AT A POINT LOCATED: PARCEL NO. 12633200000	1/4 NW SE	1/4 SW NW	SECTION 33 33	TOWNSHIP N. 16 N 16 N	RANGE 2WWM. 2WWM	WRIA Chehalis 23 Chehalis 23	COUNTY. Thurston
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
<p>PARCEL A: The South half of the Southwest quarter of Section 28, Township 16 North, Range 2 West, W.M., EXCEPTING Lacamas Road along the Easterly boundary.</p> <p>PARCEL B: The part of the Northwest quarter of Section 33, Township 16 North, Range 2 West, W.M., lying Northwesterly of Tenino Highway, EXCEPTING Lacamas Road along the Easterly boundary. ALSO EXCEPTING that portion conveyed to Thurston County for right-of-way, by deed recorded July 11, 2001 under Auditor's File No. 3364386.</p> <p>PARCEL C: That part of the North half of the Southwest quarter of Section 33, Township 16 North, Range 2 West, W.M., lying Northwesterly of Tenino Highway.</p> <p>In Thurston County, Washington.</p>							
PARCEL NO. 12628330000 12633320101 12633200000	1/4 S ½ N ½	¼ SW SW NW	SECTION 28 33 33	TOWNSHIP N. 16 N 16 N 16 N	RANGE, 2WWM 2WWM 2WWM		

DESCRIPTION OF PROPOSED WORKS

Group A water system with two new points of withdrawal, pumps, and a 10,000 gallon storage tank. See attached Exhibit "A" for a copy of the Conceptual Water System Plan prepared by Skillings-Connolly, Inc. for additional information regarding the water system.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: October 2004	COMPLETE PROJECT BY THIS DATE: October 2014	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: October 2014
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REPORT OF EXAMINATION

BACKGROUND:

Application.

On May 27, 2004, at a regular public meeting of the Water Conservancy Board of Thurston County (the "Board"), Todd Hansen of Scatter Creek Development Corporation filed an application (see attached Exhibit "B") with the Board to add a purpose of use and change the point of withdrawal of Ground Water Certificate No. 1118-A. See attached Exhibit "C" for copy of the subject Certificate of Water Right. With a priority date of April 4, 1951, this certificate authorizes the withdrawal of 250 gallons per minute (gpm) and 110 acre-feet per year (afy) from a well located within the NW¼ of Section 33, Township 16N., Range 2 W.W.M. Withdrawal of ground water is authorized, each year, for the irrigation of 55 acres. Transfer application THUR-04-03 was accepted for processing by the Board on May 27, 2004.

The objective of this application is to serve domestic water with a portion of the water appropriated under Certificate of Water Right No. 1118-A to a future residential subdivision known as Scatter Creek Ranch. The Developer, Todd Hansen of Scatter Creek Development Corporation, will build this 66 lot single-family residential subdivision on 44.5 acres of the 214-acre project site. Individual lot sizes will vary between a 21,780 square feet minimum to a .5 acre maximum size. The remaining 169.5 acres will be the Resource Parcel associated with this subdivision, where the existing agricultural activities and seasonal irrigation will continue. The Thurston County Hearing Examiner granted preliminary approval for Scatter Creek Ranch on August 20, 2004. See attached Exhibit "D" for a copy of the Thurston County Hearing Examiner's Decision. See Exhibit "E" for a copy of the plat map of Scatter Creek Ranch.

There are three existing wells located on the project site. Two of these wells will be decommissioned as required by Thurston County because they are located within the 44.5-acre development area. The third well will remain as an irrigation well if suitable or two new wells will be drilled on Thurston County Tax Parcel Number 12633200000 to serve the water system.

A new Department of Health approved Group A water system will be developed to provide potable water. This system will be privately owned and operated by the developer, Todd Hansen. See attached Exhibit "A" for a copy of the Conceptual Water System Plan prepared by Skillings-Connolly, Inc. for additional information regarding this water system.

Notices.

A public notice of the application was published for two consecutive weeks, on June 30 and July 7, 2004, in The Olympian, a newspaper of general circulation within Thurston County. A copy of the Affidavit of Publication dated August 3, 2004 is attached as Exhibit "F". The deadline for filing a protest to this application based on the publication in The Olympian was 30 days after the second publication date of July 30, 2004.

COMMENTS AND PROTESTS:

The Board received no objections or comments during the public comment period.

INVESTIGATION:

Site Investigation.

A site investigation was conducted on August 17th at approximately 7:15 pm by Commissioner Tom Myrum and Commissioner Mike Rhubright with the assistance of property owner Mr. Todd Hansen. The property showed evidence of past irrigation based on the evidence of an area covered by short brown hay. However, there was no clear indication that irrigation had taken place this summer. The hay was very short and the entire area was brown. There were several cattle grazing the area. An irrigation gun was placed in the center of an area that was approximately equal to the certificated 55 acres. This irrigation gun was attached by hose to a well in the center of the previously irrigated area. The well pump was powered by a diesel generator as Mr. Hansen indicated that the transformers on a nearby power pole were not operational. A test of the pump supplied subsequent to the field investigation showed that the well and pump were capable of producing the maximum 250 gpm approved by the water right certificate. While we found no present irrigation of the certificated acreage at that time, statements by the prior owner and a worker verify that irrigation had taken place on the property. The 2000 aerial photo from the Thurston County geodata website further supports the claim that irrigation has taken place on the property in recent years. The site investigation concluded at approximately 8:15 pm. Pictures from the field examination are attached as Exhibit J.

State Environmental Policy Act (SEPA) Compliance.

The governmental action relating to the subject application is exempt from the "detailed statement" preparation requirements of SEPA (WAC 197-11-800(4)). The application neither involves appropriations of one (1) cubic feet per second or more of surface water for irrigation purposes or appropriations of 2,250 gallons per minute or more of ground water for any purpose.

Description of Existing Water Right - Validity and Extent.

The existing Certificate of Groundwater Right Number 1118-A, under a priority date of April 4, 1951, authorizes the withdrawal of 110 acre-feet annually for irrigation of 55 acres, with a maximum instantaneous withdrawal of 250 gallons per minute.

Mr. Hansen does not have any records documenting the rate of withdrawal or the amount of water that has been used previously for irrigation of the existing place of use. However, statements from Hank Doleman (property and water right owner from 1990 to 2003), Francisco Yanez (ranch employee from 1980 to 1990), and Todd Hansen (current owner since 2003) document that the property has been continuously irrigated since 1950. Under the current ownership of Todd Hansen, seasonal irrigation continues to date. See Exhibit "G" for copies of these water usage statements. There have been no assertions by any others that the subject water right has not been fully used during any 5-year period since the inception of the water right. Since the property was continuously used as a cattle feed lot operation between 1950 and 2003, it is reasonable to infer, absent information to the contrary that the water use from 1950 to 1980 was similar to that which is documented by the statements of Mr. Yanez and Mr. Doleman.

An aerial photograph of the property taken in 2000 was obtained from Thurston County Geodata. The month this photo was taken is unknown. However, the photo clearly demonstrates that the property was being irrigated at the time and that the area in shown is approximately equal to the water right's allowed 55 acres. See attached Exhibit "H" for a copy of the referenced aerial photograph.

Information provided by the applicant related to the existing well shows that it was drilled in January of 1951. The application for the water right was filed in April of 1951. The field examination was conducted in June of 1951 for the water right application. In the Report of Examination by the field examiner, it states that the project was completed at the time of examination. Certificate of Ground Water Right No. 1118-A was issued in July 1952 for 250 gpm, 110 afy, for the irrigation of 55 acres.

The amount of property described on the existing place of use is approximately 214 acres, and from the site visit and the documentation provided, it appears that approximately 55 acres has been irrigated in recent years. There is no information to the contrary that this site has been irrigated on a consistent basis over the life of the existing water right. Allowing for a duty of 2 acre-feet per acre of irrigated crops, which is the water duty used at the time the initial water right was issued and remains as a reasonable water duty, the 110 acre/ft per year is the established and appropriate measure of the extent of the water right. The existing pump on the property is sufficiently sized to appropriate the necessary volume of water to meet the full 110-acre feet extent of the water right over the full irrigation season. (See exhibit K, pump test)

Based on the above, and with no information to the contrary, the Board finds that the entire amount of the existing water right of 110 afy for the irrigation of 55 acres has been put to beneficial use and no portion of this water right has been lost due to non-use for a period of five consecutive years, and is therefore available for transfer.

Impairment of Other Existing Water Rights.

There is no evidence or contention of any existing impairment of other existing water rights as a result of the current authorized withdrawal at the approved place of use. The comprehensive hydrogeological report produced by Robinson and Noble for the applicant indicates that there will be no impairment of existing water rights or surface waters resulting from the proposed new points of withdrawal for the municipal and agricultural wells and their consequent cones of depression. As stated in the report, even though the proposed community well is nearer to Scatter Creek than the existing point of withdrawal, there is no increase in total annual withdrawal and based on the hydrogeology of the area, and less withdrawal during the summer, there is no reason to expect a change in the summer base flow of Scatter Creek. The report is included as Exhibit I.

In addition, with the partial change in purpose of use from a irrigation right, which is used only during the irrigation season, to Community Domestic Supply, which is used on a year-round basis, there will be a reduction in the amount of water withdrawn from the Chehalis River basin aquifer during the dry summer months each year resulting in a net positive effect on water resources in the immediate area.

The Board therefore finds, after reviewing the information provided by the applicant and the information gathered in its site investigation, that the quantity and instantaneous water rights proposed for the new Community Domestic Supply water system will not impair the water rights of adjacent water right holders. No evidence was presented or obtained which indicates the water rights of nearby groundwater and surface water users will be impaired by approval of this application.

Public Interest Considerations.

Water service to existing and future development by a Group A water system is an improvement over existing development patterns characterized by individual wells and smaller Group B “six-pack” type water systems because it allows single source monitoring of the quantity and quality of the beneficial use. In addition, conservation will be encouraged by individual lot metering and charges based upon consumption. The net benefit to the groundwater during the dry summer months can be considered a benefit to the public interest.

The Findings, Conclusions, and Decision by the Thurston County Hearing Examiner, dated August 20, 2004, states *“The public use and interest will be served by the platting of such subdivisions and dedication. Providing an additional 66 single-family residential lots in a rural area is consistent with the housing needs of Thurston County and the goal of retaining the areas rural characteristic.”*

The change in period of use for municipal purposes will also reduce the impact to the groundwater during the dry summer months producing a positive benefit to the aquifer which is beneficial to the public interest.

Relinquishment or Abandonment.

As the water right proposed for change is in a valid exercisable certificated status, the statutory forfeiture provisions of Chapter 90.14 RCW are inapplicable. Statements by past and present owners and operators confirm the continuous use of the water over the entire life of the water right. In terms of abandonment, there is no objective evidence of intent by the certificate holder to abandon said right, nor is there anything in the historical analysis to demonstrate an intent to abandon by any previous owner.

CONCLUSIONS:

1. **Validity and Extent of Water Right.** The applicant has demonstrated by the evidence presented that the existing water right is valid and there is no evidence to the contrary that the extent of water available for the proposed partial change of purpose of use, and change in the point of withdrawal, is 110 acre-feet per year, at a maximum instantaneous withdrawal rate of 250 gallons per minute.
2. **Relinquishment/Abandonment.** There is no evidence of statutory relinquishment pursuant to RCW 90.14, nor is there any evidence of the intent of the current or past owners to abandon the water right authorized under Ground Water Certificate No. 1118-A.
3. **Hydrogeologic Analysis.** See discussion above in the section entitled “Impairment of Other Existing Water Rights” and see Exhibit I.
4. **Comments/Protests.** The Board received no objections or comments during the public comment period.
5. **Impairment of Other Water Rights.** There is no evidence that relocating the point of withdrawal will result in any impairment to other water right holders or surface water flows in the area. See Exhibit I.
6. **Public Interest.** Providing a single source of water for future development that is operated by a water purveyor in accordance with the regulations of the State of Washington Department of Health appears to be in the public interest, from a public health perspective. The reduced groundwater usage during dry summer month results in a positive benefit to the aquifer and is in the public interest.

DECISION:

Based on conclusions above, the decision of the Board is to approve the water right transfer application of Todd Hansen, Scatter Creek Development Corporation to provide the following changes to Groundwater Certificate No. 1118-A:

1. The point of withdrawal shall be two new wells, located within the NW ¼ of the SW ¼, and the SE ¼ of the NW ¼ of Section 33, Township 16 N, Range 2, W.W.M., located in Thurston County, Washington.
2. The maximum water right transfer authorized is 250 gallons per minute and 110 acre-feet per year.

3. The place of use is an area containing approximately 214 acres located in the S ½ of the SW ¼ of Section 28, and the N ½ of the SW ¼ and the NW ¼ of Section 33, Township 16 N, Range 2 W.W.M.
4. The purpose of use for a portion (50 gallons per minute, 26.88 acre-feet per year) of Groundwater Certificate No. 1118-A shall change to community domestic supply for residential development. The balance (200 gallons per minute, 83.12 acre-feet per year) of the water appropriated under this Certificate shall continue to be used for seasonal irrigation on a portion of the 169.5 acre Resource Parcel and the 66 residential lots contained within the future plat of Scatter Creek Ranch

PROVISIONS:

A. Issuance of Superseding Certificates:

The Department of Ecology shall issue a revised Certificate for Water Right No. 1118-A to Todd Hansen Construction for 50 gallons per minute, 26.88 acre-feet per year to reflect the quantity authorized for withdrawal for this community domestic water system on a year-round basis and 200 gallons per minute, 83.12 acre-feet per year to reflect the quantity to be used for seasonal irrigation.

B. Construction and Operational Requirements:

1. In accordance with Chapter 173-160 WAC, wells shall not be located with certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations, as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of a solid waste landfill.
2. All wells constructed in the State shall meet the construction requirements of Chapter 173-160 WAC entitled "Minimum Standards for the Construction and Maintenance of Wells" and Chapter 18.104 RCW entitled "Water Well Construction Act (1971)."
3. An approved metering device shall be installed and maintained in accordance with RCW 90.03.360, RCW 90.44.450 and WAC 508-64-020 through B040, and WAC 508-12-030. Meter readings shall be recorded at least monthly.
4. A completed well report of the well shall be submitted by the driller to the Department of Ecology within 30 days of completing each well. All pump test data for a well shall be submitted to the Department of Ecology as it is obtained.
5. Installation and maintenance of an access port as described in Chapter 173-160 WAC is required. An air line and gauge may be installed in addition to the access port.
6. This authorization to make use of public waters of the State is subject to senior existing rights, including any existing rights that may exist of a senior priority held by the United States for the benefit of Tribes under treaty or executive order.
7. Water-pumpage, well monitoring, and static water-level data, along with a summary and analysis of the data, shall be submitted annually, or more frequently upon request, to Ecology's Southwest Regional Office Water Resources Program.
8. The permittee is advised that notice of Proof of Appropriation of water (under which the final certificate of water right is issued) should not be filed until the permanent distribution system has been constructed and that quantity of water allocated by the permit to the extent water is required, has been put to full beneficial use.
9. Under RCW 90.03.005 and RCW 90.54.020(6), conservation and improved water use efficiency must be emphasized in the management of the State's water resources, and must be considered as a potential new source of water. Accordingly, as part of the terms of this water right *transfer*, the applicant shall prepare and implement a water conservation plan approved by the Department of Health. The standards for such a plan may be obtained from either the Department of Health or the Department of Ecology.

LIST OF EXHIBITS

- Exhibit A: Conceptual Water System Plan by Skillings-Connolly, April 2004
- Exhibit B: Water Right Transfer Application THUR-04-03
- Exhibit C: Ground Water Certificate No. 1118-A
- Exhibit D: Thurston County Hearing Examiner's Decision for Scatter Creek Ranch
- Exhibit E: Plat Map of Scatter Creek Ranch by Skillings-Connolly
- Exhibit F: Affidavit of Publication, The Olympian
- Exhibit G: Water Usage Statements (Doleman, Yanez, Hansen)
- Exhibit H: 2000 Aerial Photograph from Thurston County Geodata
- Exhibit I: Robinson Noble Technical Report
- Exhibit J: Site Examination Photos
- Exhibit K: Memo from Todd Hansen dated November 15, 2004
- Exhibit L: 1986 Aerial Photograph from Washington State Department of Transportation

10. The applicant is not permitted to withdraw water as provided in the Decision of Approval of Changes until a final decision by the director of the Department of Ecology is rendered as provided in RCW 90.80.080.

APPROVAL/REJECTION:

Approval/Rejection:

The Water Conservancy Board of Thurston County hereby recommends approval for the water right changes described within this record decision on November 21, 2004 and submits this Record of Decision and Report of Examination to the director of the Department of Ecology for final review and departmental action.

Signed:

Nick Adams, Chairman

Date: _____ Accepts/Rejects/Abstains

Michael Rhubright, Vice-Chairman

Date: 11-21-04 Accepts/Rejects/Abstains

Jerry Louthain, Secretary

Date: 11-21-04 Accepts/Rejects/Abstains

Jon Hare, Commissioner

Date: 11-21-04 Accepts/Rejects/Abstains

Tom Myrum, Commissioner

Date: 11-21-04 Accepts/Rejects/Abstains

Bill Smith, Alternate Commissioner

Date: _____ Accepts/Rejects/Abstains

Rejection Opinion:

None.

Delivered to the Director, Washington State Department of Ecology and Southwest Regional Office Department of Ecology on November _____, 2004

Date Mailed to Applicant and Interested Parties: November _____, 2004

For attachments not included or for more information please contact:

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